

UNDER THE RESOURCE MANAGEMENT ACT 1991

IN THE ENVIRONMENT COURT AT CHRISTCHURCH

IN THE MATTER of a reference to the Environment Court under
Clause 14 of the First Schedule to the Resource
Management Act 1991

AND

IN THE MATTER of Proposed Plan Change 6A (Water Quality) to
The Regional Plan: Water for Otago

BETWEEN Horticulture New Zealand

Applicant

AND Otago Regional Council

Respondent

TO:

The Registrar
Environment Court
PO Box 2069
Christchurch 8013

1. Name of applicant, along with a statement that this person made a submission or is the relevant territorial authority:

Horticulture New Zealand
P.O. Box 10 232
Wellington

Attention: Mr Chris Keenan

Horticulture NZ made a submission and further submissions on the Proposed Plan Change 6A (Water Quality)

2. Name of authority issuing the proposed policy or plan or making a decision on submissions:

Otago Regional Council

3. Date of receipt or public notification of the decision (which ever is the latter):

23 April 2013

4. Decisions appealed against:

Decision on Objective 7A.1

4.1 Description of the subject-matter of the proposal or decision and specific provision, omission, or part of decision on submissions being referred:

Horticulture NZ sought that there be a review of the values in the Water Plan so that all relevant values be included in Schedule 15.

4.2 Reason for appeal:

The decision states that natural and human use values' are included in the Water Plan and that the freshwater values in the NPSFW are consistent with the maintenance of Otago's natural and human use values.

The natural and human use values in the Water Plan do not include matters that are in the NPSFM, such as food production. The values need to be reviewed to be consistent with the NPSFM.

4.3 Relief Sought:

Undertake a review of the natural and human use values and amend Schedule 15 so that the natural and human use values are supported and achievable.

5. Decisions appealed against:

Objective 7A.2

5.1 Description of the subject-matter of the proposal or decision and specific provision, omission, or part of decision on submissions being referred:

Horticulture NZ sought changes to Objective 7A.2 to include additional values.

5.2 Reason for appeal:

The decision states that natural and human use values' are included in the Water Plan and that the freshwater values in the NPSFW are consistent with the maintenance of Otago's natural and human use values.

The natural and human use values in the Water Plan do not include matters that are in the NPSFM, such as food production. The values need to be reviewed to be consistent with the NPSFM.

5.3 Relief Sought:

Amend Objective 7A.2 to include the following values:

- Domestic Food Production and processing
- Export Food Production and processing
- Community social and economic wellbeing
- Recognition of lawfully established existing investment
- Equitable treatment for rural and urban communities in managing water quality.

And add complimentary policies, rules and methods that give effect to the Objective.

6. Decisions appealed against:

Rule 12.C.1.3 Discharge of nitrogen from land to groundwater

6.1 Description of the subject-matter of the proposal or decision and specific provision, omission, or part of decision on submissions being referred:

Horticulture NZ made a submission seeking that the rule be deleted and that a process be established to develop a rule that is practical and workable for growers. The decision only slightly amends the rule.

6.2 Reason for appeal:

The rule requires the use of Overseer and the decision state that it is appropriate to use in a regulatory context as it has been endorsed by the Environment Court. The court has recognised the limitations of Overseer in respect of horticultural crops and other systems that are not provided in the tool. Therefore it is inappropriate to only require one tool in a rule framework that precludes some users from meeting the rule requirement.

The rule includes figures for N discharges that do not relate to the state of the environment and are not effects based. Horticulture NZ sought that there be a process to develop appropriate figures for horticulture. The decisions retain the numbers as notified, but sets a longer timeframe for adoption. It would be more appropriate to use that timeframe to develop appropriate figures for inclusion in the Plan for separate catchments and activities.

6.3 Relief Sought:

Delete Rule 12.C.1.3 and establish a process to work with growers to develop a rule that is practical and workable for growers, including undertaking base research to establish N leaching figures from a range of horticultural crops grown in the region. OR

Include leaching figures developed in consultation with horticulture that are appropriate for horticultural crops.

Delete the requirements for use of Overseer in Rule 12.C.1.3 or incorporate use of other appropriate models.

7. Decisions appealed against:

Decision on Policy 7B.4 (renumbered 7B.8)

7.1 Description of the subject-matter of the proposal or decision and specific provision, omission, or part of decision on submissions being referred:

Horticulture NZ made a submission seeking change to the Policy 7B.4 but the decisions do not include the changes sought.

7.2 Reason for appeal:

Horticulture NZ made a submission seeking change to the policy to include best management practices and audited self-management as a means to reduce potential or actual adverse effects. The decisions amend the policy and removes the focus on addressing effects. The policy now seeks to reduce the level of contaminants in discharges. The focus should be on reducing adverse effects.

7.3 Relief Sought:

Amend Policy 7.B.4 as follows:

Promote the use of best management practices, including audited self-management programmes and codes of practice to reduce the actual or potential adverse effects on water bodies.

8. Decisions appealed against:

Rule 12C.1.1

8.1 Description of the subject-matter of the proposal or decision and specific provision, omission, or part of decision on submissions being referred:

Horticulture NZ made submissions on 12.C.1.1 and 12C.1.2 seeking that a zone of reasonable mixing be provided for. The decision declines the submission.

8.2 Reason for appeal:

The decisions amend the rule structure and provide for a range of discharges as permitted activity but the threshold is 'where the discharge first enters water'. There should be provision of a zone of reasonable mixing included in the rule, consistent with the approach in the RMA.

8.3 Relief Sought:

Amend Rule 12.C.1.1 by providing for a zone of reasonable mixing.

9. General Reasons

Notwithstanding the specific reasons stated for appeal Horticulture New Zealand considers that the Plan is not consistent with the Purposes and Principles of the Resource Management Act 1991.

10. General Relief Sought:

That consequential amendments be made as a result of relief sought above.



Chris Keenan
**Manager – Resource Management and Environment
Horticulture New Zealand**

Dated: 4 June 2013

Address for service of applicant:

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Advice to recipients:

How to become a party to proceedings

You may be a party to the appeal if you made a submission or further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in Form 33) with the Environment Court within 15 working days after the period for lodging of notice of appeals end.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274 (1) and Part 11A of the Resource Management Act 1991. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements or service requirements (see Form 38).

How to obtain copies of documents relating to the appeal

The copy of this notice served on you does not attach a copy of the appellant's submission or the decisions appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any question about this notice contact the Environment Court in Auckland, Wellington or Christchurch.

Contact details of Environment Court for lodging documents

Location: 83 Armagh St
Christchurch

Postal: PO Box 2069
Christchurch

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